

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Request for Waiver of the	)	
Year 3 Filing Window Order	)	
by The Universal Service Administrator	)	
Company	)	
	)	
for	)	
	)	File No. SLD-160182
Franklin Township Community School	)	
Corporation	)	
Indianapolis, Indiana	)	
	)	File No. SLD-160577
Henry County Schools	)	
Napoleon, Ohio	)	
	)	CC Docket No. 96-45
Federal-State Joint Board on	)	
Universal Service	)	
	)	CC Docket No. 97-21
Changes to the Board of Directors of the	)	
National Exchange Carrier Associations, Inc.	)	

**ORDER**

**Adopted: August 5, 2002**

**Released: August 6, 2002**

By the Wireline Competition Bureau:

1. The Wireline Competition Bureau has under consideration a Waiver Request from the Universal Service Administrative Company (Administrator).<sup>1</sup> In the Waiver Request, the Administrator requests that the Year 3 filing window be waived for two specific applicants.<sup>2</sup> For the reasons discussed below, we conclude that the Administrator's request is consistent with the Commission's ruling in the *Year 3 Server Failure Order*.<sup>3</sup> Therefore, we grant the Waiver Request, and we direct the Administrator to take further action consistent with this Order.

2. Under the schools and libraries universal service support mechanism, eligible

<sup>1</sup> Letter from the Universal Service Administrative Company to the Federal Communications Commission, filed December 12, 2001 (Request for Waiver).

<sup>2</sup> *Id.* at 2.

<sup>3</sup> *In the Matter of Federal-State Joint Board on Universal Service, Year 3 Filing Window*, CC Docket No. 96-45, Order, 15 FCC Rcd 13932 (2000) (*Year 3 Server Failure Order*).

schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>4</sup> In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Administrator completed FCC Forms 470 and 471, and comply with the Commission's competitive bidding requirements.<sup>5</sup> The Commission's rules require that the applicant file the FCC Form 471 by the filing window deadline to be considered pursuant to the funding priorities for in-window applicants<sup>6</sup>

3. The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.<sup>7</sup> Waiver is appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.<sup>8</sup> Due to unusual circumstances during the Funding Year 3 window, the Commission directed the Administrator to ensure that certain applications filed electronically after the filing window closed were considered as filed in a timely manner.<sup>9</sup> The Commission deemed the fact that the web site server for the Administrator failed immediately before the close of the Funding Year 3 deadline to be special circumstances warranting a deviation from the deadline.<sup>10</sup> An application was to be treated as timely if it was completed on January 20, 2000 after the server was working, and could have been completed on January 19, 2000 had the server been functioning.<sup>11</sup> The Commission specifically referred to 168 applicants identified by the Administrator as falling under this category.<sup>12</sup>

4. After the *Year 3 Server Failure Order* was issued, the Administrator discovered two additional applicants that met the enunciated standard.<sup>13</sup> The Administrator identified these two applicants as Franklin Township Community School Corporation (Franklin), Indianapolis, Indiana, and Henry County Schools (Henry), Henry, Napoleon, Ohio.<sup>14</sup> Those applicants started their electronic applications before the server failed, and completed them on January 20, 2000.<sup>15</sup> The Administrator believes that the applicants would have been given waivers if the Administrator had included the names with the other 168 names provided to the Commission, and that the "failure to include them improperly prejudiced treatment of these applications."<sup>16</sup>

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<sup>4</sup> 47 C.F.R. §§ 54.501–54.503.

<sup>5</sup> 47 C.F.R. § 54.504(c).

<sup>6</sup> 47 C.F.R. § 54.507(c), (g).

<sup>7</sup> 47 C.F.R. § 1.3.

<sup>8</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>9</sup> *Year 3 Server Failure Order*, 15 FCC Rcd 13932, para 1.

<sup>10</sup> *Id.*

<sup>11</sup> 15 FCC Rcd at 13934, para 5.

<sup>12</sup> *Id.* at 13935, para 9.

<sup>13</sup> Waiver Request at 1.

<sup>14</sup> *Id.*

<sup>15</sup> See FCC Form 471, Franklin Township Community School Corporation, filed January 20, 2000 (started December 26, 1999); FCC Form 471, Henry County Schools, filed January 20, 2000 (started December 28, 1999).

<sup>16</sup> Waiver Request at 2.

5. The applications of both Franklin and Henry meet a set of specific criteria listed by the Commission as sufficient to waive the FCC Form 471 filing window deadline. The Commission did not limit the *Year 3 Server Failure Order* waiver to the 168 identified applicants.<sup>17</sup> Instead, the Commission ordered the filing window deadline waived “for the applicants that meet the standards set forth in this Order.”<sup>18</sup> We conclude that the Administrator’s request to grant waivers for Franklin and Henry is consistent with the principle and scope of the *Year 3 Server Failure Order*.

6. Accordingly, IT IS ORDERED, pursuant to the authority delegated under sections 0.91, 0.291, 1.3, and 54.702(c) of the Commission’s rules, 47 C.F.R. §§0.91, 0.291, 1.3, and 54.702(c) that the Request for Waiver by the Universal Service Administrative Company concerning Franklin Township Community School Corporation and Henry County Schools filed on November 27, 2001 IS GRANTED to the extent provided herein.

7. IT IS FURTHER ORDERED that the Administrator IS DIRECTED to take further actions consistent with this ORDER.

FEDERAL COMMUNICATIONS COMMISSION

Carol Matthey  
Deputy Chief, Wireline Competition Bureau

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<sup>17</sup> See generally *Year 3 Server Failure Order*, 15 FCC Rcd 13932.

<sup>18</sup> *Id.* at 13936, para. 11.